



9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**[Docket Number USCG-2020-0124]**

**RIN 1625-AA08**

**Special Local Regulations; Recurring Marine Events in the Lake Michigan Captain of the Port Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is updating its recurring special local regulations for marine events located within the Captain of the Port Lake Michigan zone. This rule reorganizes five separate regulations of a similar nature currently listed in the Code of Federal Regulations into a single regulation, makes minor formatting changes for consistency, moves six existing events into this regulation, updates the dates listed for events, and lists these regulations in table form.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2020-0124 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Chief Petty Officer Kyle Weitzell, Waterways Management Division, Sector Lake Michigan, U.S. Coast Guard; telephone 414-747-7148, email Kyle.W.Weitzell@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background Information and Regulatory History**

On March 19, 2020, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulations; Recurring Marine Events in the Lake Michigan Captain of the Port Zone” (85 FR 15745). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action to revise special local regulations regarding recurring marine events within the Captain of the Port Lake Michigan (COTP) zone. During the comment period that ended April 20, 2020, we received no comments.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that the likely combination of recreational vessels, commercial vessels, and an unknown number of spectators in close proximity to these various recurring marine events in and on the navigable waters of the United States pose a extra or unusual hazards to the safety of life on those waters.

Therefore, the COTP has established special local regulations around the event locations listed in this rule to help minimize risks to safety of life during these events. This rule consolidates and makes minor formatting updates to existing regulations.

#### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM published March 19, 2020. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule reorganizes five separate regulations of a similar nature currently listed in the Code of Federal Regulations (CFR) into a single regulation, makes minor formatting changes for consistency, moves six existing events into this regulation, updates the dates listed for events, and lists these regulations in table form.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

##### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of these special local regulations. These regulations will be in effect only during the recurring marine events listed in this regulations for which the COTP has determined pose risks to the safety of life on waters of the United States. The size, location, and duration of these regulations will be limited to the extent necessary to minimize these risks. Moreover, the COTP will make advance notice of the enforcement of these regulations through the Local Notice to Mariners and/or Broadcast Notice to Mariners. This regulation also provides a means for anyone needing to transit through or within a regulated area to seek permission from the COTP.

*B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated areas listed in this regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule.

If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have

a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves involves the consolidation of and minor formatting changes for five existing special local regulations. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record for Categorically Excluded Actions supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Revise § 100.903 to read as follows:

#### **§100.903 Recurring marine events in the Lake Michigan Captain of the Port Zone**

- (a) *General.* (1) The regulations in this section, along with the regulations of §100.901, apply to the marine events listed in table 1 to this section.

- (2) The regulations in this section will be enforced for the duration of each event, on or about the dates indicated. Notice of the exact dates and times of the effective period of the regulations in this section with respect to each event, the location of the regulated area, and details concerning the event will be made public by publication in the Local Notices to Mariners and/or Broadcast Notice to Mariners over VHF-FM radio.

(3) The dates and times of these events are subject to change. In the event of a change to these events, the Coast Guard will publish a Notice of Enforcement with the exact dates and times that the regulated area will be enforced.

(4) Sponsors of events listed in table 1 to this section are still required to submit applications for marine event permits in accordance with §100.15.

(b) *Special Local Regulations.* (1) No vessel may enter, transit through, or anchor within the regulated area of any event listed in table 1 to this section which has been advertised in accordance with paragraph (a)(2) above without the permission of the Coast Guard Patrol Commander.

(2) Vessel operators desiring to enter or operate within the regulated area shall contact the Coast Guard Patrol Commander to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the Coast Guard Patrol Commander.

(3) All geographic coordinates in table 1 to this section are North American Datum of 1983 (NAD 83).

**TABLE 1 TO §100.903**

<b>Event</b>	<b>Sector Lake Michigan Special Local Regulations</b>	<b>Date</b>
(1) Harborfest Dragon Boat Race	South Haven, MI: All waters of the Black River, within an area bound by the following coordinates:  42° 24.227' N, 086° 16.683' W, then southeast to 42° 24.210' N, 086° 16.667' W, then northeast to 42° 24.320' N, 086° 16.442' W, then northwest to 42° 24.337' N, 086° 16.457' W, then returning to the point of origin	2 days; in mid-to-late June
(2) Summer in the City Waterski Show	Green Bay, WI: All waters of the Fox River from the Main Street Bridge to the West Walnut Street Bridge between coordinates:	Each Wednesday of July and August



	44° 31.089' N, 088° 00.904' W, then southwest to 44° 30.900' N, 088° 01.091' W	
(3) Celebrate Americafest Ski Show	Green Bay, WI: All waters of the Fox River from the West Walnut Street Bridge to the mouth of the East River between coordinates:  44° 30.912' N, 088° 01.100' W, then northeast to 44° 31.337' N, 088° 00.640' W	1 day; on or around July 4
(4) Grand Haven Coast Guard Festival	Grand Haven, MI: All waters of the Grand River, within an area bound by the following coordinates:  43° 04.000' N, 086° 14.200' W, then east to 43° 03.933' N, 086° 14.067' W, then south to 43° 03.750' N, 086° 14.167' W, then west to 43° 03.800' N, 086° 14.283' W, then returning to the point of origin	2 weeks; in late July and/or early August
(5) Milwaukee Venetian Boat Parade	Milwaukee, WI: All waters of Lake Michigan within the Milwaukee Harbor and the Milwaukee River from McKinley Marina, along the Veteran's Park shoreline, to the Milwaukee Art Museum between coordinates:  43° 02.066' N, 087° 52.966' W, then southwest to 43° 02.483' N, 087° 53.683' W, then south to 43° 02.366' N, 087° 53.700' W	1 day; the third Saturday of August
(6) Milwaukee Open Water Swim	Milwaukee, WI: All waters of the Milwaukee River from the confluence with the Kinnickinnic River to the I-794 Bridge between coordinates:  43° 01.532' N, 087° 54.182' W, then northwest to 43° 02.154' N, 087° 54.597' W	1 day; the first or second Saturday of August
(7) Sister Bay Marinafest Ski Show	Sister Bay, WI: All waters of Sister Bay within an 800 foot radius of the following coordinates:  45° 11.585' N, 087° 07.392' W	1 day; the last week of August or first week of September
(8) Milwaukee Harborfest Boat Parade	Milwaukee, WI: All waters of the Milwaukee River from the North Holton Street Bridge to the confluence with the Kinnickinnic River between coordinates:  43° 03.284' N, 087° 54.267' W, then south to 43° 01.524' N, 087° 54.173' W	1 day; the first or second weekend of September

	<p><i>and</i></p> <p>All water of the Kinnickinnic River from the confluence with the Milwaukee River to the Municipal Mooring Basin between coordinates:</p> <p>43° 01.524' N, 087° 54.173' W, then south to 43° 00.829' N, 087° 54.075' W</p>	
(9) Milwaukee River Challenge	<p>Milwaukee, WI: All waters of the Milwaukee River from the confluence with the Menomonee River and the East Pleasant Street Bridge between coordinates:</p> <p>43° 01.915' N, 087° 54.627' W, then north to 43° 03.095' N, 087° 54.468' W</p> <p><i>and</i></p> <p>All waters of the Menomonee River from the North 25th Street Bridge to the confluence with the Milwaukee River between coordinates:</p> <p>43° 01.957' N, 087° 56.682' W, then east to 43° 01.915' N, 087° 54.627' W.</p>	1 day; the third Saturday of September
<b>Event</b>	<b>Marine Safety Unit Chicago Special Local Regulations</b>	<b>Date</b>
(10) Chinatown Chamber of Commerce Dragon Boat Race	<p>Chicago, IL: All waters of the South Branch of the Chicago River from the West 18th Street Bridge to the Amtrak Bridge between coordinates:</p> <p>41° 51.467' N, 087° 38.100' W, then southwest to 41° 51.333' N, 087° 38.217' W.</p>	2 days; The second Friday and Saturday of July
(11) Southland Regatta	<p>Blue Island, IL: All waters of the Calumet Sag Channel from the South Halstead Street Bridge to the Crawford Avenue Bridge between coordinates:</p> <p>41° 39.450' N, 087° 38.483' W, then southwest to 41° 39.083' N, 087° 43.483' W</p> <p><i>and</i></p> <p>All waters of the Little Calumet River from the Ashland Avenue Bridge to the junction of the Calumet Sag Channel between coordinates:</p>	2 days; the first Sunday of November and the Saturday prior to it

	41° 39.117' N, 087° 39.633' W, then northeast to 41° 39.374' N, 087° 39.001' W	
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**§§ 100.906, 100.907, 100.909, and 100.910 [Removed]**

3. Remove §§ 100.906, 100.907, 100.909, and 100.910

Dated: May 5, 2020.

T. J. STUHLREYER,  
CAPTAIN, U.S. Coast Guard,  
Captain of the Port Lake Michigan.  
[FR Doc. 2020-09878 Filed: 6/1/2020 8:45 am; Publication Date: 6/2/2020]